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IN THE
Supreme Court of the United States

CITY OF CHICAGO, *et al.*,
Petitioners,
v.
DONNA E. SHALALA, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

BRIEF *AMICI CURIAE* OF THE CENTER FOR LAW AND SOCIAL POLICY, THE FOOD RESEARCH AND ACTION CENTER, THE NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY, AND THE CHILDREN'S DEFENSE FUND IN SUPPORT OF PETITIONERS

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QUESTION PRESENTED

Whether Congress may, consistent with the Fifth Amendment's requirement of equal protection under law, disqualify noncitizens lawfully residing in the United States from receiving federally funded welfare benefits that noncitizens help to fund through their taxes on the same basis as citizens.

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INTEREST OF *AMICI CURIAE* [1]

The Center for Law and Social Policy (CLASP) is a national public policy and law organization founded in 1968. CLASP undertakes policy advocacy and research concerning family poverty and legal assistance to the poor,

[1] Pursuant to Rule 37.3 of the Rules of this Court, the parties have consented to the filing of this brief. The parties' letters of consent have been filed with the Clerk of this Court. No counsel for any party has authored this brief in whole or in part. No monetary contributions to the preparation or submission of this brief have been made by any person or entity other than *amici curiae* and their counsel.

as well as technical assistance, training, and publication in those areas.

The Food Research and Action Center (FRAC) is a research, public education, training, technical assistance, law, and public policy center whose mission is to end hunger in the United States. FRAC focuses on raising family incomes and strengthening public nutrition assistance programs in order to reduce hunger and undernutrition.

The National Law Center on Homelessness and Poverty is a not-for-profit organization based in Washington, D.C., established to address issues related to homelessness and poverty at the national level. Poor and homeless people are frequently without effective political voice or power. The Center works to protect the constitutional and statutory rights of homeless families and individuals and to develop constructive policies to help homeless persons out of poverty and into self-sufficiency. Recently, the impact of welfare reform has been a focus of the Center's work.

The Children's Defense Fund is a private, nonprofit organization founded in 1973. It provides a voice for children who cannot vote, lobby, or speak for themselves, paying particular attention to the needs of poor and minority children and to the needs of children with disabilities.

The decision below (Pet. App. 1a-21a) is the most recent in a string of lower court decisions rejecting constitutional challenges to provisions of federal welfare reform legislation that discriminate against a large and growing class of low-income persons on the sole basis that those individuals are not citizens. See Pet. 16 (citing cases). These statutory provisions have already resulted in the termination of Food Stamps, Supplemental Security Income payments, Medicaid coverage, and Temporary

Assistance to Needy Families payments to many hundreds of thousands of permanent resident aliens who live in or near poverty, with dramatic consequences for those immigrants' health and well-being. The impact of these statutory provisions will increase dramatically over the next several years, as immigrants who have come to the United States since the effective date of the statute (and who are subject to particularly draconian restrictions) continue to increase in numbers. *Amici* respectfully submit this brief in order to bring to the Court's attention facts and empirical data concerning the far-reaching effects of the challenged statutory provisions that may be of assistance to the Court in considering the petition for a writ of certiorari.

REASONS FOR GRANTING THE PETITION

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Welfare Reform Act") sharply restricted noncitizens' participation in federal benefit programs. Most noncitizens were prohibited outright from participating in the Food Stamp Program, 7 U.S.C. § 2011 *et seq.*, a federally funded program to assist low-income households purchase food, and the Supplemental Security Income Program (SSI), 42 U.S.C. § 1381 *et seq.*, a federally funded program providing cash support for low income persons who are elderly or disabled. 8 U.S.C. § 1612. The Welfare Reform Act also prohibited most immigrants entering the United States after August 22, 1996, from participating in other "Federal means-tested public benefit" programs for five years after their date of entry into the United States. 8 U.S.C. § 1613. As a result, many noncitizens are also ineligible to receive benefits under the Medicaid program, 42 U.S.C. § 1396 *et seq.*, a federal program established to reimburse states for the cost of providing medical care to needy persons, and

benefits under the Temporary Assistance for Needy Families program (TANF), 42 U.S.C. § 601 *et seq.*, a federally funded, temporary cash support program for poor families. Subsequent legislation restored Food Stamp benefits to some income-eligible immigrants who were legal residents as of August 22, 1996, Pub. L. No. 105-185, §§ 504, 506, 507, 112 Stat. 578-79 (1998), and to SSI recipients who were legal residents and who were already receiving benefits as of that date, or who were legal residents as of that date and who subsequently become blind or disabled. Pub. L. No. 155-33, tit. VII(a), 111 Stat. 216-17 (1997).

1. The provisions of the Welfare Reform Act discriminating against noncitizens have already had a profound effect on the health and welfare of permanent resident aliens. The impact of those statutory provisions is apparent both from government data and from other empirical research.

The Department of Agriculture has estimated that approximately 935,000 permanent resident aliens who were otherwise eligible for Food Stamps lost their eligibility for Food Stamps in fiscal 1997 as a direct result of the Welfare Reform Act. M. Fix and W. Zimmerman, *The Legacies of Welfare Reform's Immigrant Restrictions*, 75 Interpreter Releases 1577, 1580 (1998) [hereinafter *Legacies*]. The most recent estimates indicate that the partial restoration of Food Stamp eligibility to certain legal immigrants in fiscal 1999 resulted in approximately 225,000 permanent resident aliens regaining eligibility for federally funded Food Stamps. See The White House, *President Clinton and Vice President Gore's FY 2000 Budget: Meeting the Needs of the Nation's Long-Term Challenges, Issue Paper, "Restoring Benefits to Vulnerable Groups of Immigrants"* (February 1, 1999). The Department of Agriculture has estimated that in fiscal 1999

there were 570,000 income-eligible permanent resident aliens who were ineligible for Food Stamps solely because of their status as noncitizens. General Accounting Office, *Welfare Reform: Many States Continue Some Federal or State Benefits for Immigrants* 12 (July 1998) [hereinafter *Welfare Reform*].[2]

For many of the affected households, Food Stamps were an essential lifeline enabling family members to obtain the food necessary to lead an active, productive life. A detailed study of the impact of Food Stamp cuts in two cities with high immigrant populations, Los Angeles and San Francisco, found that immigrant households whose Food Stamps were cut experienced dramatically more food insecurity and hunger than a control group of immigrant households who continued to receive Food Stamps. California Food Security Monitoring Project and California Food Policy Advocates, *Impact of Legal Immigrant Food Stamp Cuts in Los Angeles and San Francisco: Preliminary Summary* (May 1998).[3] Even more disturb-

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[2] The total number of permanent resident aliens who were income-eligible for Food Stamps in fiscal 1999 was 820,000 (including 250,000 whose statutory eligibility was restored and 570,000 who remained ineligible). This total is less than the 940,000 figure for fiscal 1997 because of a general decline in the number of Food Stamp recipients and an increase in the number of legal immigrants who have become naturalized citizens. *Welfare Reform* at 12.

[3] Researchers define "food insecurity" as a condition of "limited or uncertain availability of nutritionally adequate and safe foods." United States Department of Agriculture, Food and Consumer Service, *Household Food Security in the United States in 1995* iii (1997) [hereinafter *Household Food Security*]. "Hunger" is defined as "the uneasy or painful sensation caused by a lack of food." *Id.* Households described as "food insecure with moderate hunger" are households in which "[f]ood intake for adults has been reduced to an extent that it implies that adults have repeatedly experienced the physicial sensation of hunger." *Id.* at vi. Households described

ing, the cuts led to a marked increase in severe hunger among children. *Id.* at 7-8. The study also showed that while some families did not suffer from food insecurity or hunger immediately after the cuts, they began to suffer from increased food insecurity and hunger over time. *Id.* at 7. Six months after the Welfare Reform Act's Food Stamp cuts had taken effect, half of the families whose benefits were cut suffered from household food insecurity with moderate or severe hunger. *Id.* at 8. This was *four times* higher than the rate among the United States low-income population as a whole. *Id.*[4] This pattern is consistent with the results of other research documenting the progression of food insecurity—beginning with anxiety about insufficient access to food, followed by changes in the quality or variety of food intake, leading to reduced food intake by adults, and ultimately resulting in hunger among all family members, including children. *Id.*; compare C. Olson, *et al., Understanding the Measurement of Hunger and Food Insecurity in the Elderly* 22-29 (Inst. for Research on Poverty, University of Wisconsin, May 1996).

Other research on overall levels of food insecurity and hunger among permanent resident aliens with low incomes has produced findings that are equally alarming. A study of Latino and Asian permanent resident aliens using public health facilities in California, Texas, and Illinois found that 80% of the households surveyed suffered from food insecurity or hunger. Physicians for Hu-

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as "'food insecure with severe hunger" are households with "more extensive reductions in food intake" among adults and (in the case of households with children) households "that have reduced the children's food intake to an extent that it implies that the children have experienced the physical sensation of hunger." *Id.*

[4] These figures represent the study's findings in Los Angeles. Similar effects were found in San Francisco.

man Rights, *Hungry at Home: Food Insecurity and Hunger Among Legal Immigrants in the United States* 1 (September 1999). More than 40% of the households surveyed suffered from moderate or severe hunger. *Id.*

Food insecurity and hunger are not merely statistical constructs. Empirical research shows that children who live in hungry households are much more likely than other children to suffer from unwanted weight loss, dizziness, diarrhea (staph), asthma, anemia, frequent colds, frequent headaches, and ear and other infections. Food Research and Action Center, *Community Childhood Hunger Identification Project: A Survey of Childhood Hunger in the United States* 22 (July 1995) [hereinafter *Childhood Hunger*]. Children who live in hungry households are also disproportionately likely to suffer from fatigue, irritability, and inability to concentrate. *Id.*[5] Another recent study shows that, controlling for other factors, children suffering from food insecurity are more likely to have behavioral and performance problems in school and to exhibit disabilities affecting performance in school (such as learning and perceptual disabilities and speech impairments). Panel Study of Income Dynamics, *Some Recent Findings from the PSID: Children's Food Security*, PSID Newsletter (April 1998).

The consequences of unremedied food insecurity and hunger are not confined to children. Pregnant women who suffer from food insecurity and hunger are likely to deliver less healthy babies. See Institute of Medicine, Committee on Scientific Evaluation of WIC Nutrition Risk Criteria, *WIC Nutrition Risk Criteria: A Scientific Assessment* 44 (1996). Elderly persons who are hungry

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[5] These disparities between children from hungry households and other children hold even when comparisons are limited to the same income level. *Childhood Hunger* at 22.

or food insecure may suffer from weakness, loss of muscle mass, poor healing of wounds, impaired organ functions, infections, and increased susceptibility to degenerative diseases. See K. Cope, *Malnutrition in the Elderly: A National Crisis* 3-4, 12-15 (U.S. Admin. on Aging, Region X, 1996). They may also find it difficult to follow medically recommended diets for conditions like high blood pressure or to maintain regular eating patterns necessary for proper care of diabetes. C. Olson, *Food Insecurity and Hunger: Poverty Policy for the 1990s and Beyond*, 18 Focus 61, 63 (Fall/Winter 1996-97). Hungry adults of any age are more likely to suffer from malnutrition. *Household Food Security* at iii.[6]

In short, policies that single out permanent resident aliens as a group unworthy of federal assistance have increased the level of food insecurity and hunger among permanent resident aliens living at or near the poverty level. Such policies deprive hundreds of thousands of vulnerable, disadvantaged members of our society of access to food that is necessary for them to lead healthy, productive lives.

The data available for other programs affected by the Welfare Reform Act are less extensive, but generally follow a similar pattern. With respect to SSI, approximately 785,000 noncitizens were receiving benefits in 1995, the year before the cutoff. T. Parrott, *et al.*, *Noncitizens and the Supplemental Security Income Program*, 61 Social Security Bulletin 3, 17 (1998) [hereinafter

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[6] Reduced resources may also force families and individuals to choose among necessities. Faced with the choice, many will forgo housing or medical care to pay for food. *See generally Food for Thought: Cutbacks in the Food Stamp Program Are Proving Hazardous to the Nation's Health*, Scientific American 23, 24 (August 1998); J. Blau, *The Visible Poor: Homelessness in the United States* 57-58 (1992).

Noncitizens and SSI]. This includes benefits for low-income elderly people ("SSI-Aged benefits") and benefits for the blind and totally disabled ("SSI-Disabled benefits"). The Social Security Administration prepared to terminate benefits for about 580,000 legal immigrants before the 1997 amendment preserving benefits for those who were already receiving benefits prior to August 22, 1996. *Welfare Reform* at 10.

Historically, many noncitizen SSI-Aged benefit recipients have been elderly immigrants without sufficient work history to receive Social Security benefits and with no other source of cash income. *Noncitizens and SSI* at 20-23. Although benefits for persons who were receiving SSI-Aged benefits on August 22, 1996 will continue, the Welfare Reform Act makes SSI-Aged benefits unavailable to permanent resident aliens who were already present in the United States on August 22, 1996, but who reach age 65 after that date. See 8 U.S.C. § 1612(a)(2)(E).

An average of 64,000 noncitizens applied for SSI-Aged benefits each year between 1990 and 1995. *Noncitizens and SSI* at 17. There is no reason to assume that the demographic and economic factors that have led needy low-income noncitizens to apply for SSI upon reaching 65 have dissipated. In all likelihood, significant numbers of permanent resident aliens who reach age 65 after the effective date of the Welfare Reform Act will be subsisting below the poverty level, will be unable to work, and will lack any other source of cash income. The impact of the Welfare Reform Act on such permanent resident aliens is likely to be catastrophic.

SSI-Disabled benefits are available to legal permanent residents admitted before August 22, 1996, regardless of when those individuals become disabled. See 8 U.S.C. § 1612(a)(2)(F). However, resident aliens admitted to

the United States after that date are ineligible for SSI-Disabled benefits. See *id.* Between 1990 and 1995, new noncitizen applications for SSI-Disabled benefits averaged 79,000 per year. *Noncitizens and SSI* at 17. There is no reason to believe that poor noncitizens will cease to become blind or totally disabled or that noncitizens who live in poverty and who become blind or totally disabled will not need government assistance.

With respect to Medicaid, approximately 4.6% of all Medicaid enrollees prior to the enactment of the Welfare Reform Act were legal permanent residents. L. Ku and B. Kessler, *The Number and Cost of Immigrants on Medicaid: National and State Estimates* iii (Table ES-2) (Urban Inst., Dec. 16, 1997). This amounted to approximately 1,472,000 people. *Id.* Although legal permanent residents who entered the United States before August 22, 1996 may continue to receive Medicaid benefits if their state of residence elects to provide such benefits, see 8 U.S.C. § 1612(b)(2)(D), legal permanent residents entering the United States after that date are ineligible for Medicaid benefits for at least five years after entry. 8 U.S.C. § 1612(a).[7]

The effects of being denied access to Medicaid coverage are profound. Many low-income immigrants lack access to employer-provided or other private health insurance. Persons with neither Medicaid nor private insurance coverage are far less likely to obtain regular, nonemergency medical services, both because of their lack of resources to pay for such services and because such individuals simply lack a regular health care provider. See American

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[7] After five years, eligibility turns on whether the immigrant is sponsored (in which case his sponsor's income is generally deemed to be available to him, thus effectively precluding eligibility in nearly all cases, until naturalization) and the immigrant's state of residence. *See* 8 U.S.C. § 1631(a).

Academy of Pediatrics, *Policy Statement: Health Care for Children of Immigrant Families* 2-4 (July 1997) [hereinafter *Policy Statement*]; J. Currie, *Medicaid Use by Children of Immigrants*, 18 Focus 54, 55 (Fall/Winter 1996-97). The results of reduced access to medical care are serious for immigrants, their families, and society as a whole. See generally Committee on Health and Adjustment of Immigrant Children and Families, *et al.*, *From Generation to Generation: The Health and Well-Being of Children in Immigrant Families* 136-52 (D. Hernandez and E. Charney, eds., 1998). Among other things, lack of access to regular medical care reduces the effectiveness of emergency medical services even where such services remain available and reduces the likelihood of detecting and treating infectious diseases. *Policy Statement* at 2-3. In addition, restrictions on access to Medicaid reduce access to prenatal care for pregnant women, with potentially disastrous consequences for mothers and their children. *Id.* Denying Medicaid to elderly noncitizens will deprive the weakest and poorest of them of the only source of support they have for long-term care in their old age. See R. Friedland & V. Pankaj, *Welfare Reform and Elderly Legal Immigrants* 15 (National Academy on Aging, July 1997) [hereinafter *Elderly Legal Immigrants*].

2. The impact of the Welfare Reform Act's treatment of permanent resident aliens is increasing every year. The Welfare Reform Act and certain subsequent modifications treat immigrants who were legal permanent residents on or before August 22, 1996 differently from those who are admitted after that date.[8] Over time, as persons who en-

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[8] For instance, the Act's denial of SSI benefits does not apply to legal aliens who were already receiving SSI benefits as of August 22, 1996 or who were lawfully residing in the U.S. as of August 22, 1996 and subsequently become disabled. *See* 8 U.S.C. § 1612(a)(2)(E)-(F). Similarly, legal aliens who, as of August 22, 1996, were elderly or disabled and who were lawfully residing in

tered the United States as legal permanent residents prior to that date naturalize, emigrate, or die, they will make up a decreasing percentage of all legal permanent residents. Conversely, post-Welfare Reform Act immigrants will make up an ever-increasing percentage of legal permanent residents, as well as an increasing percentage of the population generally and the low-income population in particular. Thus, over time, the Welfare Reform Act's restrictions will inevitably affect a larger and larger number of needy permanent resident aliens. See, *e.g.*, S. Wallace, *Welfare Reform Could Add 25,000 Uninsured L.A. County Residents Per Year* 2 (UCLA Center for Health Policy Research, August 1997).

In 1998, the United States admitted 660,000 legal permanent residents (including new entries and adjustments of status). Immigration and Naturalization Service, Office of Policy and Planning, Statistics Branch, *Legal Immigration: Fiscal Year 1998* 2 (May 1999). This figure is lower than in other recent years, and the Immigration and Naturalization Service (INS) estimates that admissions of legal permanent residents might have been up to 140,000 higher if the INS were current in processing the backlog of applications for adjustment of status. *Id.* The Bureau of the Census projects legal immigration (a category that approximates persons admitted to permanent resident alien status and that excludes refugees and undocumented persons) will be between a low estimate of 430,000 per year and a high estimate of 940,000 per year, with 685,000 per year serving as the middle and most likely projection. United States Department of Commerce, Economic and Statistics Administration, Bureau of the Census, *Current Population Reports: Population*

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the U.S. are exempted from the changes denying Food Stamps to aliens entering the country after that date. *See* 8 U.S.C. § 1612 (a)(2)(F), (I).

Projections of the United States by Age, Sex, Race, and Hispanic Origin: 1995 to 2050 28 (February 1996). Under any of these projections, the number of permanent residents who have been admitted since August 22, 1996 will accumulate rapidly in the coming years.

3. The effects of the Welfare Reform Act's provisions concerning permanent resident aliens are not limited to those whose eligibility for benefits is directly affected by the Act's provisions. Many permanent resident aliens are of childbearing age, and their United States-born children are United States citizens from birth. As a result, the overwhelming majority of "immigrant families" (families with at least one noncitizen parent) are actually "mixed-status" families in which one or more members are noncitizens (typically parents or children who were born outside the United States) and one or more members are citizens (typically children born in the United States). M. Fix and W. Zimmerman, *All Under One Roof: Mixed-Status Families in an Age of Reform* 4 (Urban Inst., June 1999) [hereinafter *All Under One Roof*]. Mixed-status families make up 9% of all United States families. *Id.* at 2.

Although only the noncitizen members of mixed-status families lost their statutory eligibility for federal benefits under the Welfare Reform Act, citizen children in those families certainly feel the effects of the Welfare Reform Act's discrimination against their noncitizen parents or siblings. In the first place, many noncitizen parents do not even apply for benefits on behalf of their citizen children. *Id.* at 21. Even if they apply, moreover, mixed-status families' overall resources are reduced when noncitizens' benefits are terminated. *Id.* at 23. For example, when noncitizens are barred from receiving Food Stamps, all members of mixed-status families in which those non-

citizens live suffer the consequences of the household's reduced food budget. *Id.*

The Welfare Reform Act's effect on mixed-status families is one illustration of a broader issue—the chilling effect of the Welfare Reform Act's treatment of permanent resident aliens. Many studies have documented that use of welfare benefits by *eligible* immigrants and their family members has dropped much more dramatically since enactment of the Welfare Reform Act than would be expected based on the scope of the Welfare Reform Act and relevant demographic and economic trends. See generally *All Under One Roof* at 21; W. Zimmerman and M. Fix, *Declining Immigrant Applications for Med-Cal and Welfare Benefits in Los Angeles County* (Urban Inst., July 1998); *Legacies* at 1585-86; United States Department of Agriculture, Office of Analysis, Nutrition and Evaluation, Food and Nutrition Service, *Who Is Leaving the Food Stamp Program? An Analysis of Caseload Changes from 1994 to 1998* 3-5 (August 1999). Although the causes of this phenomenon are not fully understood, several possible causes have been identified, including genuine confusion or lack of understanding about the complex and constantly changing eligibility rules, which differ from program to program, and fear that applying for benefits may obligate the applicant to repay benefits received at some point in the future, provide the INS with grounds for deportation or denial of naturalization, or lead to a finding that the applicant is ineligible to sponsor other immigrants at some point in the future. *Legacies* at 1585-86. Further, citizenship documentation requirements may deter or bar some particularly vulnerable groups—such as homeless persons—from applying or qualifying for benefits, even if they are eligible. See, *e.g.*, National Law Center on Homelessness and Poverty, *Hungry and Homeless: Barriers to the Receipt of Food Stamps*

by Homeless People 12-13 (November 1999) (77% of service providers reported their homeless clients were denied Food Stamps due to lack of documentation).

4. Contrary to popular perception, many immigrants do not have a practical way to avoid the consequences of the Welfare Reform Act's provisions restricting immigrants' access to welfare benefits. One widespread misperception is that permanent resident aliens whose eligibility for welfare benefits was terminated by the Welfare Reform Act can readily regain their eligibility by naturalizing. This overlooks the difficulty many immigrants have in naturalizing. Many immigrants are unable to naturalize because they cannot pass the citizenship and language tests that are required for citizenship. Not surprisingly, many disabled and elderly immigrants—precisely the groups that are most in need of government assistance—have particular difficulty in satisfying the language and citizenship test requirements. See *Elderly Legal Immigrants* at 18. A recent study in Illinois sought to estimate the percentage of permanent resident aliens who will complete five years of residency in the United States (as required for naturalization), but will be unable to speak English well and will therefore have difficulty passing the language and citizenship exam, in the next five years. R. Paral, *Citizenship 2000: Illinois Immigrants and Naturalization Needs* 6 (Report to the Fund for Immigrants and Refugees and the Illinois Department of Human Services, 1999) (hereinafter *Citizenship 2000*). That study estimated that 37.6% of immigrants otherwise eligible to naturalize will be unlikely to be able to do so because of language difficulties alone. *Id.*

Other immigrants are prevented from naturalizing because of bureaucratic delays. Immigrants are ineligible for naturalization until they have continuously resided in the United States for 5 years. 8 U.S.C. § 1427. Yet recent

studies have found that the INS frequently takes from 14 to 24 months to process applications after they are submitted. See, *e.g.*, R. Wasem, *Naturalization Trends, Issues, and Legislation* (Congressional Research Service, 1998); *Legacies* at 1582; *Citizenship 2000* at 13-14. During the waiting period, immigrants remain ineligible for benefits unless they qualify under one of the narrowly drawn exceptions. See 8 U.S.C. § 1611(a).

Another misperception is that needy immigrants can simply look to their sponsors for financial support. *E.g.*, Rep. Lamar Smith, *Immigration and Welfare Reform: Finally Taxpayers Are Being Considered*, USA Today Magazine, March 1, 1997. This view overlooks the fact that many legal permanent residents—including many immigrants who enter the United States on work visas, immigrants who are permitted to enter under diversity visas, and immigrants who were granted amnesty under the Immigration Reform Act of 1986—do not have sponsors. See J. Daskal and D. Super, *Why Can't All Immigrants Be Cared For by Sponsors?* (Center on Budget and Policy Priorities, April 14, 1997). Even sponsored immigrants may need to seek assistance if their sponsors die, become disabled, become indigent, or cannot be located when the immigrants require financial assistance.

5. As pointed out in the Petition, the decision below is one in a series of lower court decisions misreading *Mathews* v. *Diaz*, 426 U.S. 67 (1976), as authority for upholding virtually any federal legislation denying any type of government benefit to noncitizens. See Pet. at 16-17. If the decision below is allowed to stand, the lower courts' persistent misreading of *Diaz* will become even more entrenched. Indeed, given the limits on the resources available to support litigation on behalf of poor people, and given the need to allocate those resources to the most

promising types of cases, a denial of certiorari would make it unlikely that challenges to federal discrimination against noncitizens will even be brought in the future. *Amici* respectfully submit that Congress may not disqualify legal immigrants from receiving government benefits on the sole basis that they are noncitizens and that this Court should grant certiorari to make clear that the Equal Protection Clause protects noncitizens in this context.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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